

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
10-CR-25-A(Sr)

ERIC J. HUMPHREY, et al.,

Defendants.

The above-referenced case was initially referred to Magistrate Judge Hugh B. Scott for supervision of all pretrial proceedings. On October 7, 2010, defendant John E. Humphrey moved to suppress the fruits of a search of his brother, James E. Humphrey Sr.'s home at 39 Phyllis Avenue. (Dkt. No. 57) After briefing and oral argument on the motion, Magistrate Judge Scott ordered a hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). The hearing was held on August 10, 2012.

On September 10, 2012, Magistrate Judge Scott issued an Order of Recusal in this case as to all defendants. (Dkt. No. 131) This Court then referred the case to Magistrate Judge H. Kenneth Schroeder, Jr. pursuant to 28 U.S.C. §636(b)(1). On July 1, 2013, Magistrate Judge Schroeder issued a Report, Recommendation and Order recommending that defendant's motion to suppress be denied. (Dkt. No. 160)

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth

in Magistrate Judge Schroeder's Report, Recommendation and Order, defendant's motion to suppress is denied.

IT IS SO ORDERED.

_____*Richard J. Arcara*_____
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: April 2, 2014